

Indiana Department of State Revenue

Revenue Ruling #2002-03ST

March 5, 2002

Notice: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by publication of a new document in the Indiana Register. The Publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

Sales and Use Taxes—Collection of Indiana sales and use taxes by a designated third party.

Authority: IC 6-2.5; IC 6-2.5-1-1; IC 6-2.5-1-2; IC 6-2.5-1-3; IC 6-2.5-1-5; IC 6-2.5-2-1; IC 6-2.5-3-1, IC 6-2.5-4-1, IC 6-2.5-4-2.

The Taxpayer, an entity which has agreed to collect Indiana sales or use tax on the retail sales by its financial institution customers of checks and related products ("Checks") to the customers' account holders, requests the Department to rule:

1. On its collection responsibilities with respect to delivery charges that are included in a single lump sum charge to the account holders,
2. On its collection responsibilities when its customers are agencies of the United States Government and, as such, are exempt from the collection of Indiana Sales and Use Taxes.

STATEMENT OF FACTS

The Taxpayer is a commercial printer of Checks for financial institutions (banks, credit unions and savings and loan associations), which in turn sell the Checks to their customers (i.e., account holders). The Taxpayer is an Indiana registered retail merchant.

Financial institutions enter into agreements with the Taxpayer whereby the Taxpayer is to produce and supply Checks to the financial institutions. The Checks are produced by the Taxpayer pursuant to orders regularly received by it from its financial institution customers, which orders are based upon account holders' orders for Checks. Under the purchase agreements between the Taxpayer and its financial institution customers, title to the Checks passes to the financial institutions upon shipment of the Checks by the Taxpayer. The Taxpayer invoices the financial institutions, separately stating the delivery charges for the Checks.

The Taxpayer ships the Checks directly to the account holders. For billing and collection purposes, the Taxpayer, on behalf of the financial institutions, initiates a lump sum charge against the account holder's bank account, which charge includes the price of the Checks, any financial institution mark-up or commission, the delivery charge and Indiana sales or use tax due. The Taxpayer then remits the Indiana sales or use tax to the Department and causes the remaining proceeds to be distributed accordingly.

DISCUSSION

(1). In this instance, the account holder is the final consumer of the Checks. The retail sale is between the financial institution and the account holder. In instances where the delivery charges are included in a single lump sum charge to the account holder, Indiana use tax must be computed on the full charge to the account holder, including the delivery charges, unless the account holder is otherwise exempt.

Since the Taxpayer is collecting on behalf of the financial institution, the tax so collected and remitted is properly classified as the account holder's use tax. The Taxpayer agreed with the financial institution to administer the sales tax process and, as such, should collect and remit Indiana tax due on the total lump sum amount charged for Checks its ships to Indiana account holders, including the sales price, financial institution mark-up or commission and delivery charges, unless the account holder is otherwise exempt.

Sales of Checks by the Taxpayer to financial institutions for their own use will be exempt to the extent the financial institution qualifies for exemption. Separately stated delivery charges to financial institutions on items purchased for their own use are nontaxable.

(2). With regard to sales of Checks to account holders of federal credit unions, which by statute are considered agencies of the federal government, the federal credit union is not responsible for collection of Indiana sales/use tax on the sale of tangible personal property to Indiana account holders. However, the fact that the credit union is not liable for the collection of the tax does not exempt the account holder from responsibility for the use tax due on the storage, use, or consumption of the tangible personal property within Indiana [see IC 6-2.5-3-2 (a)].

In the present case, the Taxpayer, by agreement with the federal credit union, has assumed the collection responsibility for the account holders' use tax and therefore must collect the total tax due on the total lump sum amount charged for Checks shipped to Indiana federal credit union account holders.

Sales of Checks by the Taxpayer to federal credit unions for their own use will continue to be exempt.

RULING

The Department rules that for Indiana sales and use tax purposes:

1. Since the Taxpayer has agreed to collect tax on behalf of its financial institution customers, it should collect tax on delivery charges for the Checks when those delivery charges are included in a single charge against the account holder's bank account, unless the account holder is exempt from tax.
2. Indiana use tax is owed on Checks shipped to Indiana federal credit union account holders and the Taxpayer should collect that tax on the total lump sum amount billed to such an account holder, unless the account holder is exempt from tax.

CAVEAT

This ruling is issued to the Taxpayer requesting it on the assumption that the Taxpayer's facts and circumstances, as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the Taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the Taxpayer any protection.

INDIANA DEPARTMENT OF REVENUE